

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper 18

Filed by: Trial Section Merits Panel
Box Interference
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Filed
25 October 2000

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RICHARD T. DEAN and GEORGE B. HOEY,

Junior Party,
(Application 07/777,793),

v.

JO KLAIVENESS,

Senior Party
(Patent 4,714,607).

Patent Interference No. 104,540

Before: McKELVEY, Senior Administrative Patent Judge, and
SCHAFFER and GARDNER-LANE, Administrative Patent Judges.

McKELVEY, Senior Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of DEAN AND KLAIVENESS MISCELLANEOUS
MOTION 17 (Paper 17), wherein the parties agree that entry
of judgment against Klaveness is appropriate and proper, and
request that the Board make such an entry, it is

ORDERED that judgment on priority as to Count 1 (Paper 1, page 47), the sole count in the interference, is awarded against senior party Jo Klaveness.

FURTHER ORDERED that senior party Klaveness is not entitled to a patent containing claims 1-2, 5-6, 9 and 13 (corresponding to Count 1) of U.S. Patent 4,714,607, granted 22 December 1987, based on application 06/739,228, filed 30 May 1985.

FURTHER ORDERED that it is not necessary to determine whether Dean's preliminary statement "establishes that the Dean date of invention easily predates the Klaveness date of invention;" as alleged in Miscellaneous Motion 17, it nevertheless being noted that a preliminary statement is not evidence in support of a contention of a party filing the preliminary statement (37 CFR § 1.629(e)).

FURTHER ORDERED that further prosecution of the Dean application involved in the interference will take place consistent with 37 CFR § 1.664.

FURTHER ORDERED that a copy of this paper shall be made of record in files of Dean application 07/777,793 and Klaveness U.S. Patent 4,714,607.

FURTHER ORDERED that, with respect to the signed
settlement agreement mentioned in Miscellaneous Motion 17,
attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

<u>FRED E. MCKELVEY, Senior</u>)	
Administrative Patent Judge)	
)	
)	
<u>RICHARD E. SCHAFER</u>)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
<u>SALLY GARDNER-LANE</u>)	
Administrative Patent Judge)	

104,540
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